

Details About Qwest's Discount Plans

16. Taking account of Qwest's revenues for interstate private line circuits at all capacities, Qwest's revenue per DS0 equivalent capacity in 2006 was only [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] of what it had been in 2001

17. For channel terminations plus mileage at the DS1 level, Qwest's average revenue per channel termination across its five largest MSAs (Denver-Boulder, Minneapolis-St. Paul, Phoenix-Mesa, Portland-Vancouver, and Seattle-Bellevue-Tacoma) fell about [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] percent from 2001 to 2006. The sharpest drops were in Denver-Boulder, where the revenue per termination fell about [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] percent, and Portland-Vancouver, where revenue fell about [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] percent. For channel terminations at the DS3 level, Qwest's average revenue per channel termination for the same five MSAs fell about [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] percent from 2001 to 2006. The biggest drops were in Denver-Boulder, where revenue per channel termination fell about [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] percent, and Seattle-Bellevue-Tacoma, where revenue per channel termination fell about [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] percent.

18. Customers can buy special access from Qwest at a month-to-month tariffed rate, a tariffed term discount plan (e.g. 36 month term), pursuant to a tariffed Regional Commitment Program (RCP) and, where Qwest has pricing flexibility, through contract tariffs. Generally, term discount plans work particularly well for retail and wholesale

customers. RCP works quite well for wholesale customers, who value the portability feature, which allows them to add and delete circuits over time. Qwest provides most of its special access services in pricing flexibility areas pursuant to discount pricing plans such as term contracts, RCP and price flex contract tariffs.

19. RCP is available for DS1 and DS3 services, providing both term discounts and circuit portability features. “Circuit portability” means that the customers need not contract on a per circuit basis. The customers can add and delete circuits anywhere in Qwest’s 14-state region, but they must maintain their commitment level. An RCP allows a customer to receive significant price reductions for committing to a minimum quantity of DS1 and/or DS3 circuits (90% of current levels) for a 48-month term. The price reductions are taken from the month-to-month rates. Customers have the option of having RCP DS1 and/or DS3 rates stabilized or non-rate-stabilized. “Rate-stabilized” means rates are set at the then current month-to-month rates on the date the RCP becomes effective and customers will not be subject to any rate increases or decreases during the term of the RCP. “Non-rate-stabilized” means customers will be subject to rate increases and decreases if the month-to-month rates change during the term of the RCP.

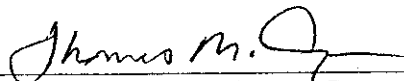
20. A number of special access customers – especially those purchasing higher-capacity optical services – purchase Qwest’s special access services pursuant to individualized contract tariffs. These contracts typically provide even steeper discounts than are available under Qwest’s term discount plans. Contract tariffs can provide for discounts as high as [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] off of month-to-month tariffed rates, with most contract tariffs

providing discounts of [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] off of month-to-month rates. Contract tariffs are available for services in areas where Qwest has pricing flexibility, and can include high-capacity and optical services. Contract tariffs are not limited to services based on month-to-month rates. In most or all cases these discounts are applied to term plans that are discounted to begin with. An example could be a contract for a high capacity optical service under a 36-month term plan, which already has a large discount over month-to-month service. Then, the contract may decrease that rate by some percentage. The result can be a very deep discount for the contract service. Contracts can provide an entire package for a customer's network by bundling together various types of services and discounts. We created our first incentive plan about four years ago for [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL], which was threatening to stop using our [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] services, and instead turn to microwave.

21. We estimate that customers representing roughly [BEGIN CONFIDENTIAL] [END CONFIDENTIAL] percent Qwest's special access revenues in pricing flexibility areas purchase special access services either pursuant to term and volume discount plans, RCP or pursuant to contract tariffs that may differ substantially from the monthly rates of any standard filed tariff.

I declare that the forgoing is true and correct to the best of my information and belief.

Executed on August 8, 2007.



Thomas Cogan

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FILED/ACCEPTED

APR 27 2007

Federal Communications Commission
Office of the Secretary

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)

Petition of Qwest Corporation for Forbearance)
Pursuant to 47 U.S.C. § 160(c) in the Denver,)
Colorado Metropolitan Statistical Area)

WC Docket No. _____

**PETITION OF QWEST CORPORATION FOR
FORBEARANCE PURSUANT TO 47 U.S.C. § 160(c)**

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QWEST CORPORATION

April 27, 2007

REDACTED – FOR PUBLIC INSPECTION

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
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Petition of Qwest Corporation for)
Forbearance Pursuant to) WC Docket No. _____
47 U.S.C. § 160(c) in the)
Denver Metropolitan Statistical Area)

DECLARATION OF ROBERT H. BRIGHAM AND DAVID L. TEITZEL
REGARDING THE STATUS OF TELECOMMUNICATIONS COMPETITION IN THE
DENVER, COLORADO METROPOLITAN STATISTICAL AREA

I. INTRODUCTION AND SUMMARY.

1. My name is Robert H. Brigham. My business address is 1801 California Street, Denver, Colorado 80202, and I am currently employed by Qwest Service Corporation ("QSC")¹ as a Staff Director in the Public Policy department. In my current position, I develop and present Qwest's advocacy before regulatory bodies concerning pricing, competition and regulatory issues. I have been employed by Qwest and its predecessor companies for over 30 years, holding various management positions in Marketing, Costs and Economic Analysis, Finance and Public Policy. I have testified before numerous state commissions in the Qwest region.

¹ QSC performs support functions, such as regulatory support, for other Qwest entities.

2. My name is David L. Teitzel. My business address is Room 3214, 1600 7th Ave., Seattle, WA 98191. My title is Staff Director and I am a member of QSC's Public Policy organization. In that position I develop and present company advocacy in matters relating to the manner in which Qwest Corporation ("Qwest") is regulated for retail services. These matters include regulatory reform in dockets before state Commissions and the FCC. I have been employed by Qwest and its predecessor companies for over 32 years and have held a number of management positions in various departments, including Regulatory Affairs, Network and Marketing.

3. The purpose of this declaration is to demonstrate that extensive competition exists for Qwest's mass market and enterprise telecommunications services in the Denver Metropolitan Statistical Area ("MSA") from a wide variety of intramodal and intermodal competitors. Consistent with the analytical framework the Commission applied to Qwest's earlier forbearance request with respect to the Omaha MSA, our declaration provides facts and evidence demonstrating that these competitors are actively competing with Qwest in the Denver MSA via a full range of telecommunications service platforms. Many competitors compete for customers by building their own facilities or utilizing other non-Qwest facilities (including competitive fiber cable networks, coaxial cable networks, wireless services, internet-based services, etc.). Competitors also compete via the purchase of wholesale services from Qwest, including Unbundled Network Elements

("UNEs"), Qwest Platform Plus ("QPP"), Qwest Local Services Platform ("QLSP"),² Special Access services, and retail services sold at a resale discount.

4. Our declaration and associated exhibits contain information obtained from publicly-available sources and internal Qwest databases, and the sources of data upon which we rely in this declaration are fully identified. We attest that all Qwest data in this declaration is accurate as of the filing date of Qwest's petition in this proceeding and that any information obtained from non-Qwest sources is shown precisely as it is reported by the source. A summary of the competitive information in our declaration is set forth below.

5. As of 2005, U.S. Census data shows that there were approximately 1.01 million households and 2.36 million people in the Denver MSA,³ up from 0.89 and 2.19 million respectively in 2000.⁴ Clearly, the Denver MSA is experiencing a steady growth trend, with households increasing 13% and population increasing 8% over this timeframe. It can be conservatively assumed that demand for telecommunications services in the Denver area has increased apace. However, despite this upward trend in housing and population, Qwest's retail access line base in the Denver area has fallen sharply since 2000 as residential and business customers have availed themselves of the expanding array of competitive alternatives to Qwest's services. As shown in Table 1 below, Qwest's retail

² In January 2007, CLECs began converting their QPP-based services to the new Qwest Local Services Platform ("QLSP") wholesale service as discussed later in this declaration.

³ The Denver MSA encompasses Adams, Arapahoe, Broomfield, Clear Creek, Denver, Douglas, Elbert, Gilpin, Jefferson and Park Counties.

⁴ <http://www.census.gov/popest/housing/HU-EST2005-CO.html>;
http://www.census.gov/population/www/estimates/Estimates%20pages_final.html (Table 1).

residential, business and public coin access line base in the Denver MSA has declined dramatically since 2000:⁵

-----begin confidential-----

Table 1

Qwest Retail Access Lines in the Denver MSA

<u>Retail Service</u>	<u>Dec. 2000</u>	<u>Dec. 2006</u>	<u>Difference</u>	<u>% Difference</u>
Residential	██████	██████	██████	██████
Business	██████	██████	██████	██████
Public	██████	██████	██████	██████
Total	██████	██████	██████	██████

-----end confidential-----

These access line trends are driven by the proliferation of intramodal and intermodal competitive alternatives to Qwest's services in the Denver MSA, and the range of alternatives continues to expand, as we discuss in our declaration.

6. The mix of competitive alternatives in the Denver MSA continues to evolve. Traditional competitors, such as CLECs, continue to aggressively compete with Qwest and intermodal competitors, such as wireless and Voice over Internet Protocol ("VoIP")⁶ providers, are rapidly gaining a significant share of the telecommunications market. It is noteworthy that CLECs are lightly regulated and intermodal competitors are generally

⁵ These results exclude any access line losses occurring prior to December 2000 and therefore understate the extent of competitive losses in the Denver MSA.

⁶ VoIP services are now offered on a "stand-alone" basis by providers such as Vonage, SunRocket, Packet8, etc., as well as on an "integrated" basis by Cable MSOs such as Comcast, Bresnan, etc.

subject to even less regulation. Since these competitors are under no obligation to report customer in-service data,⁷ especially at the MSA level, precise measurements of competitor "shares" are not possible to obtain. However, independent research houses have addressed this void by conducting primary customer research to quantify competitive telecommunications dynamics, and Qwest has purchased such research to gain insights into market trends.

For example, TNS Telecoms, an independent research firm, conducts a quarterly "share" analysis in each of the states to estimate competitors' shares of the residential telecommunications markets. TNS collects actual billing information from a statistically-reliable sample of customers in each state⁸ (and select MSAs) and tabulates the number of residential customers subscribing to Qwest service (landline, DSL or wireless) as well as the services of Qwest's landline and wireless competitors. TNS uses this data to calculate "shares of customer connections" (excluding video connections) for each service provider in the consumer telecommunications market.⁹ TNS defines a "connection" as any telecommunications service used by the customer. For example, a residential access line, a wireless service and a broadband internet line used by a customer would each be counted as a discrete "connection" under the TNS definition. Thus, a customer with

⁷ The regulatory status of local telephone service provided by VoIP technology is the subject of an open FCC proceeding (IP-Enabled Services, WC Docket No. 04-36, Notice of Proposed Rulemaking, 19 FCC Rcd 4863). Currently, telecom providers are not required by FCC instructions for Form 477, which is the reporting tool used by telecom providers to report in-service access line counts to the FCC, to report VoIP-based access lines. If the FCC rules in its pending IP services proceeding that VoIP service is a telecommunications service, providers of these services may be required to report in the future access lines served via VoIP. However, until that time, providers utilizing VoIP to provide telecom services are not required to report in-service data to the FCC.

⁸ In Qwest's 14-state territory, the TNS research sample is drawn strictly from exchanges within the Qwest service area footprint and does not include data from Independent service territory.

⁹ TNS Telecoms does not conduct a "connections share" analysis for the business market, and instead produces a "share of total telecom spend" analysis for the business segment.

Qwest landline service, Qwest DSL service and Verizon Wireless service would be counted as having three "connections," with Qwest holding a 66% "connections share."

In fourth quarter 2000, TNS reported that Qwest's share of residential customer connections in the Denver MSA was [REDACTED]. By fourth quarter 2006, Qwest's share of residential communications connections in the Denver MSA had declined to [REDACTED].¹⁰ This data confirms that an increasing number of Denver-area consumers are utilizing non-Qwest telecom alternatives to satisfy their telecommunications needs.

7. It is equally difficult to develop precise measurements of "share" in the business markets given the diverse scope of intramodal and intermodal competition that now exists in the Denver MSA, and the general lack of available customer in-service data for these competitors. However, TNS Telecoms also conducts primary research in the small business and enterprise business segments and has assembled "revenue share" estimates for these markets that indicate competitive trends.¹¹ TNS classifies businesses generating less than \$1,500 in monthly telecom revenues as "mass market" business customers and businesses generating monthly revenues at or above this level as "enterprise" business customers. The TNS research shows that as of the fourth quarter of 2006, Qwest's share of Denver MSA revenues was [REDACTED] for the small business market and [REDACTED] for the enterprise market.¹² Thus, a large and expanding proportion of both small and

¹⁰ Source: TNS Telecoms, February 2007.

¹¹ TNS Telecoms does not collect "connections share" data in the business market, and instead, determines "revenue share" for the various competitors in the market based on the amount of monthly spending of the survey respondents with each telecommunications service provider from whom they report they are purchasing service.

¹² Source: TNS Telecoms, February 2007.

enterprise business customers in the Denver MSA are purchasing a wide array of telecommunications services from Qwest's competitors, as described in the following sections of our declaration.

8. Comcast Communications, the predominant cable provider serving the Denver MSA, aggressively competes with Qwest in the telecommunications market.¹³ As of December 2006, Comcast was serving a geographic area encompassing Qwest wire centers that account for approximately [REDACTED] of the Qwest retail residential lines and [REDACTED] of the Qwest retail business lines in the Denver MSA.¹⁴ As discussed later in this declaration, Comcast competes with Qwest by utilizing its own extensive coaxial cable and fiber network and Comcast-owned switches. Comcast offers a broad range of telecommunications services to residential, small business and enterprise business customers in the Denver MSA.

9. In addition to Comcast, there are at least [REDACTED] unaffiliated CLECs actively competing with Qwest in the Denver MSA, ranging from national CLECs such as AT&T, McLeodUSA and XO Communications, to regional CLECs such as Cbeyond, Eschelon and Liberty Bell. As discussed in following sections of our declaration, these CLECs are serving residential customers as well as business and governmental customers of virtually

¹³ The competitive dynamics regarding Comcast in the Denver MSA are similar to the competitive dynamics in the Omaha MSA, where the Commission has previously reviewed and ruled upon a Qwest forbearance petition.

¹⁴ Based on Comcast media coverage map of the Denver, CO DMA. The coverage area of the Comcast media map was compared to the list of communities Comcast has reported to the FCC it now serves in the Denver MSA to confirm the accuracy of the Comcast DMA map for the greater Denver area (see <http://www.fcc.gov/mb/engineering/lists/ate.html>); http://www.comcastspotlight.com/www/common/media/rocky_mountain/denver_metro.pdf. See Exhibit 1, Page 1.

all sizes. As of December 2006, CLECs are competing with Qwest in 100% of the wire centers in the Denver MSA.¹⁵

10. A significant amount of fiber optic cable has been placed by competitive service providers in the Denver MSA, and this fiber is used to bypass Qwest's network. According to GeoTel, approximately [REDACTED] miles of fiber (*excluding* fiber owned by Qwest and Qwest's affiliates) has been placed in the Denver MSA. This fiber is typically used by Qwest's competitors to serve enterprise and wholesale customers.¹⁶ The GeoTel data shows that at least one fiber-based competitor is present in [REDACTED] of Qwest's wire centers in the Denver MSA, and these wire centers contain [REDACTED] of Qwest's retail residential lines and [REDACTED] of Qwest's retail business lines in the Denver MSA. In addition, competitive fiber is now used to serve nearly [REDACTED] buildings in the Denver MSA.¹⁷

11. Landline-based competitors are also using special access services purchased from Qwest to serve customers in the Denver MSA. As of December 2006, competitors purchased over [REDACTED] voice grade equivalent ("VGE") special access channels in this geographic area—a number that exceeds the number of VGE circuits provided to CLECs via unbundled network elements, Qwest Platform Plus and resale combined.

¹⁵ Source: Qwest Wholesale Database, December 2006.

¹⁶ GeoTel continually works to update its data regarding fiber-based competitors and provides updated data approximately every six months. However, GeoTel does not possess complete data regarding each fiber-based competitor, and the data reported above is therefore likely understated. GeoTel data underlying the numbers above was provided to Qwest in October 2006.

¹⁷ Source: GeoTel, October 2006.

12. Wireless service is used as a direct substitute for traditional landline service by an ever-increasing number of customers and is contributing to Qwest's retail access line reductions. At least five major wireless service providers, including Verizon, AT&T, T-Mobile, Sprint and Cricket, are now providing service in the Denver MSA,¹⁸ with at least one wireless provider providing service in every Qwest wire center. The Commission's recent Commercial Mobile Radio Services ("CMRS") report released on September 29, 2006 cites to various sources in estimating that 6 to 12 percent of U.S. households have replaced their landlines with wireless service.¹⁹ Other independent research suggests that the proportion of customers who have "cut the cord" in the Denver MSA may be at the high end of this range. On October 18 2006, Telephia, an independent research entity specializing in Consumer market research, released the results of primary research showing that 11.3% of the households polled in the Denver metropolitan area used only wireless service in their homes and no longer subscribed to landline telephone service.²⁰ There can be no doubt that wireless service represents a significant and growing form of direct competition to Qwest's landline service business in the Denver MSA.

As discussed later in our declaration, the number of wireless subscribers in Colorado climbed to 3.4 million in June 2006 and now significantly exceeds the number of ILEC and CLEC lines combined in the state. Further, as described later in our declaration,

¹⁸ Qwest also provides wireless service in the Denver MSA. According to an analysis by TNS, however, Qwest holds only an [REDACTED] share of the consumer wireless market in the Denver and Boulder MSAs.

¹⁹ CMRS Report at pp. 89-90.

²⁰ *Midwesterners Cut the Cord: Households in Detroit and Minneapolis-St. Paul Have The Highest Rate of Wireless Substitution Among 20 Largest U.S. Cities, According to Telephia*; Oct. 18, 2006. See Exhibit 1, Page 3. Research conducted during second Quarter 2006 in 20 major U.S. markets.

Yankee Group research found that more than 51% of local calls and 68% of long distance calls have been replaced by wireless. As customers with both a wireless and wireline phone find that an increasingly significant proportion of their voice calls (as well as internet access functionality) can be accommodated via cellular phones, an even greater proportion of Qwest's residential and business landline customer base will be encouraged to "cut the cord."

II. CABLE SERVICES COMPETITION.

13. The Denver MSA is served almost exclusively by one major cable Multi Service Operator ("MSO") – Comcast.²¹ Prior to its acquisition of Adelphia Cable in July 2006,²² Comcast reportedly provided cable television, telephony and/or high-speed internet service to 700,000 Colorado subscribers.²³ "Comcast Spotlight" data provided on its web site indicates that Comcast now serves almost 800,000 cable households in Colorado, with almost 525,000 of these households in the Denver MSA.²⁴ A detailed map of Comcast's network in the Denver MSA is proprietary and not available to Qwest. However, the

²¹ US Cable serves at least some customers in the communities of Arvada, Evergreen and Golden, and Champion Broadband reports serving customers in Lakewood. Neither of these companies offers phone service, but both provide broadband internet service, enabling their customers to purchase VoIP telephone services from independent VoIP providers. However, these four wire centers are also served by Comcast, which aggressively offers voice telephone service in addition to its cable television and broadband internet services.

²² Adelphia served 100,000 cable subscribers in the Colorado Springs area.

²³ http://www.denverpost.com/search/cj_3984025. See Exhibit 1, Page 5.

²⁴ On its "Comcast Spotlight" website, Comcast reports its media coverage area and the number of cable households in Colorado and in the Denver Designated Market Area ("DMA"). DMA is a term commonly used in the media industry to define geographic coverage areas for advertising purposes. The data provided as Exhibit 1, pages 1 and 2, includes the number of Comcast cable households in each Colorado DMA, along with a map of its coverage area in the Denver DMA. This data is offered to potential advertisers as a representation of the geographic reach advertisers can expect when using the Comcast network to distribute advertising, and represents a reasonable approximation of Comcast's network facilities footprint within the Denver DMA.

“Comcast Spotlight” map presented on the Comcast web site (See Exhibit 1, pages 1 and 2) clearly shows that Comcast’s cable coverage area encompasses nearly the entire Denver MSA. In fact, according to this Comcast media coverage map, the Comcast network serves Qwest wire centers that contain approximately [REDACTED] of Qwest’s residential lines and over [REDACTED] of Qwest’s switched business lines in the Denver MSA.²⁵

Comcast has reported that nationally, it provides cable service to 24.2 million of the 45.7 million homes it passes, for a penetration rate of 51.3%.²⁶ In a May 2006 presentation by Comcast to the Colorado Office of Consumer Counsel (“OCC”) Comcast reported that its network (prior to its acquisition of Adelphia) passed 1.4 million homes in Colorado.²⁷ Given approximately 700,000 video customers (prior to the Adelphia acquisition), the penetration rate in Colorado was approximately 50% at that time.

14. Comcast Digital Voice (“CDV”) service, which utilizes VoIP technology, is available to virtually all of its customers in the Denver MSA,²⁸ and Comcast is marketing its CDV offering aggressively, as described below. Comcast reported to the Colorado OCC that it projected about one-third of its customer base would subscribe to CDV.²⁹ With approximately 525,000 cable households in the Denver MSA, this would equate to

²⁵ Source: Qwest Forecast Data Mart data as of December 2006.

²⁶ Comcast 10K, filed with the SEC on February 28, 2007, page 3.

²⁷ Colorado Office of Consumer Counsel Meeting Minutes, May, 2006. See Exhibit 1, Page 6.

²⁸ According to the aforementioned presentation to the Colorado OCC, Comcast passes “roughly 1.4 million homes” and “about 1.4 million homes” have the option to order CDV.

²⁹ *Id.*

approximately 175,000 CDV customers. These customers are served entirely via Comcast-owned network facilities, as Comcast does not rely on any Qwest wholesale network elements to provision its telephone services.

15. Comcast has invested more than \$400 million to improve its Denver-area network in preparation for anticipated growth.³⁰ On September 19 2006, Comcast announced that it would be adding more than 500 new Colorado jobs (in addition to the 200 technician and customer service positions Comcast announced earlier in 2006) with the creation of customer service centers in Centennial (Denver MSA) and Colorado Springs.³¹ Comcast stated that this would allow it “to keep pace with the increasing popularity of its bundled package of cable TV, high-speed Internet and digital voice service.”³² With the addition of these 500 new positions, Comcast’s Colorado workforce will grow to about 4,500 employees.³³

16. Comcast’s CDV offering has been growing rapidly on a national basis, and this growth is accelerating. In 2006, Comcast senior leadership expressed highly optimistic prospects for growth in its digital voice telephone operations over the next three years.

John Alchin, co-Chief Financial Officer for Comcast stated:

³⁰ <http://denver.bizjournals.com/denver/stories/2006/04/10/story8.html>. See Exhibit 1, Page 10.

³¹ http://www.rockymountainnews.com/drmn/tech/article/0.2777.DRMN_23910_5003710.0. See Exhibit 1, Page 12.

³² *Id.*

³³ *Id.*

"In that time frame, it is entirely conceivable and even probable that we could add 10 million phone customers."³⁴

In September 2006, Comcast reported that it was expecting to add 1.3 million to 1.4 million digital phone customers nationally for the year versus the 1 million additions it had previously estimated.³⁵ However, Comcast's success with its Digital Voice product in 2006 actually *exceeded* these projections; Comcast added over *1.5 million* digital phone customers for the year.³⁶

According to its Fourth Quarter 2006 Report, Comcast has a nationwide subscriber base of 2.5 million telephone subscribers, with 1.86 million CDV subscribers and 652,000 circuit switched telephone customers.³⁷ Comcast reported rapidly accelerating CDV growth throughout 2006. Following growth of 232,000 subscribers in the first quarter, 326,000 subscribers in the second quarter, and 483,000 subscribers in the third quarter, Comcast added 508,000 CDV customers in the fourth quarter of 2006.³⁸ In describing Comcast's 2006 performance, Chairman and CEO Brian Roberts proclaimed:

"2006 was simply our best year ever. Powered by our triple play offering and superior products, we added more RGUs [i.e., revenue-generating units] than at any other time in our history and reported terrific growth in cable revenue and Operating Cash Flow. This record-setting performance

³⁴ <http://www.marketwatch.com/news/story/comcast-confident-cable-phone-war/story.aspx?guid={F8C09A0C-9A88-4057-AD62-3917AB81D79F}>. See Exhibit 1, Page 13.

³⁵ <http://www.multichannel.com/article/CA6374497.html>. See Exhibit 1, Page 15.

³⁶ *Comcast Reports 2006 Results and Outlook for 2007, Announces 3-for-2 Stock Split*, Press Release issued February, 1, 2007, Table 6. See Exhibit 1, Page 19.

³⁷ *Id.*

³⁸ Citigroup Entertainment, Media and Telecommunications Conference, Presentation of Comcast, January 9, 2007; page 11; see: <http://www.veracast.com/webcasts/citigroup/emt07/05103689.cfm>. See Exhibit 1, Page 34.

demonstrates substantial operating momentum, and we could not be more enthusiastic about the future.”³⁹

By year end 2007, Comcast plans to have CDV service available to 40 million homes nationally, and projects that it will provide CDV to 8 million—or 20%—of these customers by 2009.⁴⁰ Comcast has reported that the company’s Digital Voice service was driving the adoption of other products, with 80% of its CDV customers also purchasing cable and high speed internet.⁴¹

17. Comcast currently offers its CDV service, which is provided via VoIP technology,⁴² to residential customers served via the Comcast network at a standard price of \$39.95 for customers already subscribing to Comcast cable television and high speed internet service. For customers with either Comcast cable television service or high speed internet service, Comcast prices its CDV service at \$44.95 per month. If the customer wishes to subscribe only to CDV service, Comcast’s monthly rate for the service is \$54.95. Comcast Digital Voice service includes unlimited local and long distance calling (including free long distance calls to Canada) plus 12 standard calling features.⁴³ Comcast has also been aggressively promoting its “triple play” bundle of Comcast Digital Cable, Comcast High-Speed Internet and Comcast Digital Voice throughout the Denver area for

³⁹ Comcast Reports 2006 Results and Outlook for 2007, Announces 3-for-2 Stock Split, Press Release issued February, 1, 2007, Page 1. See Exhibit 1, Page 19.

⁴⁰ Citigroup Entertainment, Media and Telecommunications Conference, Presentation of Comcast, January 9, 2007; page 11; see: <http://www.veracast.com/webcasts/citigroup/emt07/05103689.cfm>. See Exhibit 1, Page 34.

⁴¹ *Id.*

⁴² While Comcast uses VoIP technology to provide telephone service, it is provided over Comcast’s coaxial loop network. Comcast telephone service is not offered to any customer that obtains a broadband connection from a provider other than Comcast.

⁴³ See Exhibit 1, Page 53.

the past several months. Comcast's promotional rate for this bundled package is \$99.00/month for 12 months, after which time the price increases to \$132.59.⁴⁴ More recently, Comcast has used direct mail advertising in the Denver area to offer its CDV service at a price of \$19.99/month for 6 months, with free installation.⁴⁵ This particular promotion appears to be targeted to select customers, and is offered on a limited-time basis.

18. While Comcast has traditionally marketed its services to residential customers, this focus is now expanding. Comcast recently announced that its "next great business opportunity" is to sell internet, voice and video services to small and medium sized businesses.⁴⁶ On August 7, 2006, Comcast announced the appointment of Mr. William Stemper as president of Comcast Business Services. In announcing Mr. Stemper's appointment, Dave Watson, Executive Vice President of Operations for Comcast stated:

I'm thrilled that he will lead Comcast's continued efforts as we leverage our unparalleled network to deliver video, voice and data services for the business marketplace.⁴⁷

Comcast states that its target is to capture 20% of the business phone market in five years, resulting in \$12 to \$15 billion in additional revenues. Comcast also announced

⁴⁴ <http://www.comcast.com/shop/buyflow/default.ashx>. See Exhibit 1, Page 57.

⁴⁵ See Exhibit 1, Page 61.

⁴⁶ Comcast defines this market as businesses with less than 20 employees.

⁴⁷ http://www.cmcsk.com/phoenix.zhtml?c=147565&p=irol-newsarticle_pf&ID=892959. See Exhibit 1, Page 63.

that it would invest \$250 million in 2007 and \$3 billion over five years to serve these business customers.⁴⁸

On March 21, 2007, Comcast announced the opening of call center in Centennial, Colorado, that will serve as "one of two facilities nationwide dedicated to the company's small business clientele."⁴⁹ According to Comcast, the center will initially be staffed with 100 employees, with room to expand to 400 employees.⁵⁰ In making this announcement, Jim Erickson, Comcast's vice president of business services for the west division stated:

The Centennial office will play an integral part in the nation's largest cable company's plans to offer a bundle of phone, Internet and video services to the estimated 5 million small businesses in its territory. Comcast already offers Internet and pay TV to businesses but will ramp up efforts when it launches phone service later this year.⁵¹

In the meantime, as announced in June 2006, Comcast has already been arranging for its Denver-area business customers to be able to receive digital voice services through its strategic cross-marketing arrangement with Greenwood Village-based IP5280 Communications (a VoIP services provider).⁵² This arrangement calls for Comcast to refer business customers interested in VoIP to IP5280, which in turn will refer its

⁴⁸ Citigroup Entertainment, Media and Telecommunications Conference, Presentation of Comcast, January 9, 2007, pages 12-13: <http://www.veracast.com/webcasts/citigroup/emt07/05103689.cf>. See Exhibit 1, Page 34. Also, see "Comcast CEO says next target is businesses," Philadelphia Inquirer, January 11, 2007. See Exhibit 1, Page 64.

⁴⁹ http://www.rockymountainnews.com/drmn/tech/article/0.2777.DRMN_23910_5431464.00.html. See Exhibit 1, Page 65.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² http://denver.bizjournals.com/denver/stories/2006/06/26/story7.html?jst=s_cn_hl. See Exhibit 1, Page 66.

customers to Comcast's data services. IP5280 acknowledged the deal was "a temporary stopgap before Comcast introduces its own VoIP offering for businesses."⁵³

19. Finally, Comcast and other cable providers are now moving into the wireless market. Comcast, along with Time Warner Cable, Cox Communications and Advanced Newhouse are involved in a joint venture with Sprint Nextel to provide integrated mobile phone service to their cable customers.⁵⁴ Comcast began offering the Sprint Nextel wireless service in Boston and Portland in 2006, and plans to expand to other areas in 2007 (Comcast has not yet publicly revealed its wireless implementation plan for the Denver MSA).⁵⁵ This arrangement allows Comcast to fill a gap in its product portfolio, and will enable Comcast to offer the "quadruple play" bundle of services to customers, consisting of video, broadband internet access, digital telephone and wireless service. Since customers clearly prefer one-stop shopping for their communications services, this arrangement is a tool for Comcast to drive up penetration rates for all services in the bundle.

Comcast sees mobility as a way to add more convenience and value to its customer base. In an article on C/Net, Tom Nagel, senior vice president and general manager for wireless at Comcast, stated "There is no question that wireless ties all of our services together. The idea is you can take the services you enjoy at home with you when you're on the go using

⁵³ *Id.*

⁵⁴ See: http://news.com.com/2100-1039_3-6147061.html. See Exhibit 1, Page 68.

⁵⁵ See: http://biz.yahoo.com/indie/061130/458_id.html?v=1&printer=1. See Exhibit 1, Page 70.

a mobile device.”⁵⁶ According to this article, Comcast’s initial launch “will allow customers to access their e-mail, cable TV guide and home voice mail from their cell phones. They’ll offer some video content on their phones that would otherwise be available only at home. Eventually, the cable companies want to allow customers to be able to do things like program their DVRs remotely from their handsets.”⁵⁷

20. Independent industry analysts identify ILEC access line losses to cable telephony providers as significant and continuing. For example, Fitch Ratings states:

The competitive impacts of technological change remained intense, as expected, in 2006 and this should continue in 2007. Cable multiple system operators (MSOs) have aggressively rolled out digital telephony services using voice over Internet protocol (VoIP) technology that has increased retail access line erosion of incumbent local exchange carriers (ILECs). The scale of this erosion, which is expected to reach a total of approximately 6 million, representing cable telephony net additions in 2006 of more than 3 million, has increased with the widespread availability of cable telephony and its associated multi-service bundles.⁵⁸

Like the majority of cable MSOs, Comcast has deployed VoIP technology to support continued growth in its digital telephone market segment. Light Reading (an industry analyst) states:

North American cable operators are now signing up an average of about 11,000 new customers a day for IP phone service, up from 9,900 customers per day in the first quarter. Although impressive, that’s not too surprising given that all three of the biggest cable IP phone players - Time Warner Cable, Cablevision Systems and Comcast - are now signing up close to 10,000 or more subscribers every week.⁵⁹

⁵⁶ See: http://news.com.com/2100-1039_3-6147061.html. See Exhibit 1, Page 68.

⁵⁷ *Id.*

⁵⁸ Regulatory Event Risk Headlines Fitch’s U.S. Telecom Outlook for 2007, November 29, 2006. See Exhibit 1, Page 72.

⁵⁹ http://www.lightreading.com/document.asp?doc_id=108862&print=true. See Exhibit 1, Page 80.

Clearly, Comcast and other cable service providers see the provision of telephone service as a key ingredient in their strategy to expand the customer base and improve revenue streams by driving up the number of customers purchasing multiple services in addition to basic cable television service.

III. CLECs

21. In addition to Comcast, as of December 31, 2006 there are over [REDACTED] unaffiliated CLECs currently offering telephone services in competition with Qwest in the Denver MSA. Of these CLECs, [REDACTED] are providing service to customers via their own non-Qwest network facilities, [REDACTED] are providing service utilizing UNE Loops, [REDACTED] are providing service using the Qwest Platform Plus ("QPP")⁶⁰ finished wholesale service and [REDACTED] are reselling Qwest retail services.⁶¹ It is important to note that CLECs utilizing non-Qwest network facilities, QPP/QLSP and/or resale *are not reliant upon Qwest UNEs* to provide service to their customers.

22. CLECs are utilizing Qwest wholesale services to compete with Qwest in every wire center in the Denver MSA. Highly Confidential Exhibit 2 shows the distribution of Qwest wholesale services purchased by CLECs in each wire center as of December 2006, segmented by residential and business line categories. Since Qwest has no means of

⁶⁰ Qwest Local Services Platform ("QLSP") is the Qwest wholesale service that replaces QPP service as Qwest/CLEC QPP commercial agreements expire. Qwest signed QLSP agreements with several CLECs in late 2006 and early 2007. However, based on these agreements, the conversion of QPP lines to QLSP lines began after January 1, 2007. Thus, Qwest's December 2006 wholesale in-service tracking data includes QPP lines, but not QLSP lines.

⁶¹ Qwest wholesale tracking systems, December 2006.